

Message Text

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TREASURY FOR IRS

E.O. 11652: N/A
TAGS: CFED
SUBJ: EDUCATION OF AMERICAN CHILDREN IN IRAN

REF: TEHRAN 2999

1. REFTEL REPORTS THE VIEW OF THE LOCAL IRS REP THAT "EDUCATION FOR AMERICAN DEPENDENT CHILDREN IS NOT COMPULSORY IN IRAN". EMB UNDERSTANDS IRS REPS OPINION WAS REQUESTED BY IRS HQS IN CONNECTION WITH A TAX CASE UNDER CONSIDERATION IN WASHINGTON.

2. EMB, WITHOUT PREJUDICE TO THE INTERNAL IRS PROCESS, WISHES TO POINT OUT THAT THE ISSUES INVOLVED IN THIS MATTER TRANSCEND THE IMMEDIATE TAX CASE UNDER CONSIDERATION. IT IS NOT, THEREFORE, PREPARED TO ASSOCIATE ITSELF WITH THE VIEW EXPRESSED BY THE IRS REP. IN THE EMBASSY'S VIEW, THE MATTER IS QUITE COMPLEX AND WOULD REQUIRE RATHER EXTENSIVE INVESTIGATION AND DISCUSSION BEFORE A DEFINITIVE CONCLUSION COULD BE STATED.

3. ANY SUCH INVESTIGATION WOULD HAVE TO START FROM THE PREMISE THAT IRANJS LAWS PROVIDE FOR COMPULSORY, FREE EDUCATION FOR ALL RESIDENTS WITHIN CERTAIN AGE LIMITS. THERE ARE NO EXEMPTIONS STIPULATED WITH RESPECT TO NATIONALITY. IT MUST THEREFORE BE PRESUMED THAT, IF A
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LEGAL CHALLENGE WERE MADE, AN AMERICAN RESIDENT WITHIN THE RELEVANT AGE GROUP WOULD BE SUBJECT TO THE LAW UNLESS ENJOYING DIPLOMATIC IMMUNITY.

4. BEYOND THIS CIRCUMSTANCE IS THE FACT, WITH PARTICULAR REFERENCE TO AMERICAN DEPENDENTS, THAT THE GOVT OF IRAN HAS BORNE ALL COSTS INVOLVED IN THE CONSTRUCTION AND MAINTENANCE OF THE AMERICAN

SCHOOL IN TEHRAN. THIS, PLUS THE FACT THAT THE GOI, IN CONJUNCTION WITH ITS OWN CONTRACTS INVOLVING THE HIRE OF AMERICAN EMPLOYEES, AGREES TO BEAR THE FULL COST OF EDUCATION OF THE EMPLOYEES' DEPENDENTS, SUGGESTS THAT THE GOI DOES FEEL A RESPONSIBILITY TO MAKE AVAILABLE THE EDUCATION WHICH ITS LAWS DESCRIBE AS FREE AND COMPULSORY.

5. TO ASCERTAIN, HOWEVER, THE GROUNDS ON WHICH AN INTERNAL GOI AUDIT WOULD PERMIT THE PAYMENT OF THE EDUCATION COSTS IN AMERICAN-ASSOCIATED CONTRACTS, AND WHETHER THOSE GROUNDS ARE DERIVED FROM THE COMPULSORY EDUCATION LAWS, WOULD REQUIRE A FORMAL, DETAILED INQUIRY INTO GOI ACCOUNTING POLICIES. IN THE ABSENCE OF COMPELLING US NATIONAL INTERESTS, THE EMB WOULD PREFER NOT REPEAT NOT TO UNDERTAKE SUCH AN INQUIRY.

6. SUFFICE IT TO SAY AT THIS POINT THAT THERE IS SIGNIFICANT PRIMA FACIE EVIDENCE TO SUGGEST THAT THE GOVT OF IRAN DOES TAKE SERIOUSLY ITS STATED LEGAL OBLIGATION TO PROVIDE COMPULSORY EDUCATION TO ITS RESIDENTS, INCLUDING AMERICAN DEPENDENT CHILDREN. IN VIEW OF THIS EVIDENCE, THE EMB BELIEVES THAT ANY TEST CASE, BROUGHT IN THE IRANIAN LEGAL SYSTEM, MIGHT RESULT IN A RULING THAT AMERICAN DEPENDENTS ARE REQUIRED TO ATTEND IRANIAN PUBLIC SCHOOLS. ON THE OTHER HAND, THE ACTIONS DESCRIBED IN PARA 4 SUGGEST THAT THE GOI IS PREPARED TO BE QUITE LIBERAL IN ITS INFORMAL INTERPRETATION OF THE LAW AND TO BEAR CERTAIN ADDITIONAL COSTS, WITH SPECIFIC BENEFIT TO AMERICAN DEPENDENTS, TO MAKE COMPULSORY LIMITED OFFICIAL USE

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EDUCATION AVAILABLE IN THE ENGLISH LANGUAGE WITH AN AMERICAN CURRICULUM.

7. FOR A VARIETY OF REASONS WHICH ARE OBVIOUS, THE EMB PREFERS TO LEAVE THIS MATTER IN AN INDEFINITE STATE AND TO PRESS FOR NO PRECISE CONCLUSIONS ONE WAY OR ANOTHER. IT THEREFORE TAKES THE POSITION THAT THE VIEWS OF THE IRS REP ARE "NOT PROVEN" ON THIS ISSUE

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